



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

## GERMANY, AUSTRIA, AND SWITZERLAND ON PROSTITUTION

**The Conservative Point of View on Procedural Reform.**—Dean Brooks, of the College of Law in Syracuse University, makes it quite plain in his article appearing in the *Yale Law Journal* for February, 1912, that he is a patriot. The characteristically efficient and expeditious methods of British criminal tribunals, he does not hesitate to term "judicial lynching." Whereas our methods "have been formulated by a great liberty-loving, free people, and make paramount the life, liberty and happiness of the citizen," and in them the Dean has "great faith."

The following extract is reasonably typical of his point of view:

"Holding up as an example to be emulated, some European government does not appeal to me. I believe in the thoroughly Christian humanity of our own laws, and legal system, and I am not ready to approve any law of procedure that has in view the quickest legal immolation in prison or the taking the life of a citizen charged with crime."

The Dean apparently concedes that we, in America, have a "slouchy manner" of enforcing criminal procedure. Yet he patriotically insists that the more speedy criminal justice meted out in England is what "our fathers planned wisely and well to avoid and prevent."

The Dean's suggestion for relief is to "live up to the spirit of our law." That is our suggestion as well. In our judgment, however, the very genius of the common law is embodied in the sane and sensible criminal jurisprudence and administration of Great Britain and the British dependencies. Their example, at least in that respect, we must insist as "holding up to be emulated," even at the risk of being deemed unpatriotic by some patriots.

There are few crumbs of comfort to be gleaned from Dean Brooks' article by a public suffering from the technicalities and the delays of the criminal law and its administration on this side of the Atlantic. Perhaps the chiefest of these is the reluctant concession that there is now abroad in the land a spirit which does not hesitate to criticize, in the first place, and to study the solution of the problem abroad, in the second place.

I. MAURICE WORMSER, University of Illinois.

**The Legal Attitude of Germany, Austria and Switzerland on the Subject of Prostitution.**—(Paul Balmer, *Schweizerische Zeitsch. für Strafr.*, 24th year, No. 2.)

The writer comments on the general similarity of the codes which is unintentional and probably the result of evolutionary processes common to German-speaking peoples. Hope is expressed that beneficial legislation may result from the attention being given to the subject by great thinkers. The present laws were not secured without conflict, and progress will not be made without many more battles.

The article covers the following phases of the subject: Prostitution and its manifestations; and prostitution as a trade and its regulation by the state.

Prostitution in itself is looked upon as not punishable; not because it cannot be punished but because of its personal nature. The law is concerned principally with those phases which challenge social attention. The scandal proposition is not looked upon as a large one because it is local in nature. There is a tendency to ignore neighborhood complaints for the novel reason that "the prostitute must live somewhere." The idea of making the communication of venereal disease a crime seems to be a new one in Germany. The code which

## USURY LAWS

makes it a crime to mishandle or inflict bodily injury of any sort is not looked upon as covering the case. The laws guaranteeing personal freedom and against the maltreatment of minors are looked to for protection against traffic in young girls.

Switzerland punishes with imprisonment the knowing impartation of venereal disease by a prostitute or an infected man.

The general attitude of regulation brings difficulties because regulation implies public consent and involves the government in the problem of "morals police." The attitude of American communities has been to refuse to make any recognition of the traffic. The Austrian plan of recognition amounts practically to unlimited freedom for prostitution with efforts to restrict harmful contagion as far as possible.

Gainful prostitution is forbidden by law in Switzerland. This law makes houses of prostitution impossible. In Germany, gainful prostitution is punished only when health is endangered. Traffic in young girls is looked upon as an international menace. Transportation is punished by two years' imprisonment in Switzerland; in Austria, with from four weeks to three years' imprisonment. The German plan calls for imprisonment from three months to five years.

Practically the same situation confronts reformers in Europe as in America. Legal ostracism of prostitution is not a complete victory. The issue depends upon social morality everywhere.

PHILIP A. PARSONS, Syracuse University.

**Compensation by the Criminal for Injury Inflicted.**—(Prof. Dr. Earnst Hafter, Zurich, in *Schweizerische Zeitsch. für Strafr.*, 24th year, No. 4.)

The growing tendency to recognize the rights of the injured person to compensation has registered itself in laws in several European countries. Professor Hafter discusses and criticizes such legislation and the principles involved.

The question of releasing the culprit without further punishment upon the payment of compensation to the injured party turns on the effect of such an action on the public safety. Quite frequently justice is only partly obtained when the injured party has been compensated. Social protection may demand the restraint of the offender from repeating the damaging action. The principle of awarding half the fine to the injured party is a return to primitive German custom as well as Roman. Where property is confiscated for payment of fines the right of the injured should still be recognized.

In case of labor, either in confinement or at liberty, a stated portion of the proceeds of the labor should go to the injured. The principal difficulty arising from such an arrangement lies in the fact that the returns from the labor of many criminals little more than pays the state for the cost of their support. Consequently the amount available for the injured party would frequently be insignificant. For an extended discussion of this whole subject, see my own "Responsibility for Crime," Chapter IX, on Justice and Restitution.

PHILIP A. PARSONS.

**Usury Laws.**—The Appellate Division of the Supreme Court in the Second Department, New York, has taken a position construing the usury laws of the state of New York as applied to a device by a loan concern for evading the operation of those laws. The case was *Myrtle M. Thompson v. the Erie R. R. Co.* An employee of the company applied to the Chester Kirk Company of New York for a loan of \$37.00 and received a blank to be signed by him,